International Seabed Authority ISBA/18/C/8

Council

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Laws, regulations and administrative measures adopted by sponsoring States and other members of the International Seabed Authority with respect to the activities in the Area

Report of the Secretary-General

1. Article 153, paragraph 4, of the 1982 United Nations Convention on the Law of the Sea states that the obligation of the sponsoring States in accordance with article 139 of the Convention entails "taking all measures necessary to ensure" compliance by the sponsored contractor. Annex III, article 4, paragraph 4, of the Convention makes it clear that such sponsoring States' "responsibility to ensure" applies "within their legal systems", and therefore requires the sponsoring States to adopt "laws and regulations" and to take "administrative measures which are, within the framework of its legal system, reasonably appropriate for securing compliance by persons under its jurisdiction".

2. During the seventeenth session of the Authority in 2011, the Legal and Technical Commission proposed that the International Seabed Authority should be charged with preparing model legislation to assist sponsoring States in fulfilling the aforementioned obligations (ISBA/17/C/13, para. 31 (b)). In response to this proposal of the Commission, the Council of the Authority decided, at its 172nd meeting, to request the Secretary-General to prepare a report on the laws, regulations and administrative measures adopted by sponsoring States and other members of the Authority with respect to the activities in the Area. The Council further invited sponsoring States and other members of the Authority, as appropriate, to provide information on, or texts of, relevant national laws, regulations and administrative measures to the secretariat of the Authority (ISBA/17/C/20, para. 3).

3. Accordingly, on 6 October 2011, the secretariat sent out a note verbale (No. 297/11) to all members of the Authority, inviting sponsoring States of the existing contractors with the Authority and other members of the Authority to provide the secretariat with information on, or texts of, their relevant national laws, regulations and administrative measures, by 31 December 2011.

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4. As of 4 May 2012, the following members of the Authority had provided the secretariat with information on, or texts of, their respective legislation: China, Cook Islands, the Czech Republic, Germany, Guyana, Nauru, Tonga, the United Kingdom of Great Britain and Northern Ireland and Zambia. Relevant information was also provided by the secretariat of the Pacific Community Applied Geoscience and Technology Division (SOPAC).

I. Information provided by States

A. China

5. In its note verbale No. (11) 024 dated 29 December 2011, the Permanent Mission of the People's Republic of China informed the Authority that in 1991 the China Ocean Mineral Resources Research and Development Association (COMRA) had been established by the Government of China as the management organization to manage and supervise China's activities on exploration and development of resources in the international seabed area. Since that time, COMRA has managed and supervised in a strict manner China's activities in the international seabed area with respect to cruise design, activity programme, survey equipment, collection and use of samples through stipulating and implementing relevant regulations and rules, with a view to ensuring COMRA compliance with the 1982 United Nations Convention on the Law of the Sea and other relevant legal instruments in its activities conducted in the international seabed area. In order to strengthen its supervision over and management of the activities conducted in the international seabed area, China is in the process of preparing for specific legislation on exploration for and development of resources in the international seabed area. Research on relevant legislation has been undertaken since 2011. Upon completion of the research, China will proceed with the legislative procedure.

6. The secretariat was also advised that, currently, China has stipulated laws, rules and regulations on activities of exploration for, and development of, oceanic mineral resources within marine areas under its national jurisdiction, which include, inter alia, the Mineral Resources Law of the People's Republic of China, the Rules for Implementation of the Mineral Resources Law of the People's Republic of China, the Marine Environmental Protection Law of the People's Republic of China, and the Administrative Regulation on the Prevention and Treatment of the Pollution and Damage to the Marine Environment by Marine Engineering Construction Projects. Under those laws and regulations a series of legal measures have been established, which include, inter alia, the processing mechanism to apply for exploration for, and development of, marine mineral resources, the system for evaluation of environmental impact and the system for compensation and penalty for pollution and damage. A wealth of experience was accumulated through the legislative process of those laws and regulations in terms of regulating exploration and development of marine mineral resources and marine environmental protection. According to the Permanent Mission of the People's Republic of China to the United Nations, they provide a foundation for China's future legislation on exploration for, and development of, resources in the international seabed area.

B. Cook Islands

7. The Seabed Minerals Task Force of the Government of the Cook Islands provided the secretariat with a package of documents including, inter alia, the Seabed Minerals Act 2009 in draft Bill format, and a Cook Islands Model Seabed Minerals Agreement of April 2011. Those documents had been prepared by the Economic and Legal Section of the Commonwealth Secretariat in London, as part of its programme of support for the development of the Cook Islands' national regulatory framework. The Seabed Minerals Act 2009 was passed by the Parliament in 2009 and is yet to come into force. The key objective of the Act is to establish a legal framework for the efficient management of the seabed minerals of the Cook Islands Exclusive Economic Zone. Proper regulations will be drafted to support the Act and the appended Model Agreement prior to the Act's coming into force and deep seabed mining applications being considered. The Cook Islands Seabed Minerals Policy states, in Part 2.2 and Part 4 of the Act, that the underlying principles in environmental matters for deep seabed mining shall be to ensure that the conservation, protection and management of the marine and coastal environment of the Cook Islands is not compromised by seabed mineral activity and is guaranteed by the formulation, enactment and application of environmental laws and regulations reflective of the needs of the Cook Islands' ocean space and of internationally accepted principles and standards of environmental protection, including the precautionary principle.[1]

C. Czech Republic

8. The Permanent Mission of the Czech Republic to the United Nations advised the Authority through a note verbale (No. 2608/2011) that the Act of the Czech Republic No. 158/2000 of 18 May 2000 on Prospecting, Exploration for and Exploitation of Mineral Resources from the Seabed beyond Limits of National Jurisdiction and Amendments to Related Acts have remained in force without substantial amendments since 2003. The Act governs the rights and obligations of natural persons domiciled in the territory of the Czech Republic and of legal entities with their seats in the territory of the Czech Republic, engaged in prospecting, exploration for and exploitation of mineral resources from the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction as well as the associated State administration activities. The purpose of the Act concerns implementation of principles and rules of international law, according to which the seabed, the subsoil thereof and the mineral resources specified in section 1 of the Act are considered the common heritage of mankind.

9. Under the Act, prospecting and activities in the Area may be carried out by the natural persons and legal entities defined above under the terms and conditions specified in the Act under "Authorized Persons". Work connected with prospecting

[1] According to a personal communication from Paul Lynch, Advisor to the Minister of Minerals and Natural Resources of the Cook Islands, this high standard of care in environmental matters stated in the Policy aligns fully with the due diligence obligations which will apply in the Area, as stated by the Seabed Disputes Chamber in its advisory opinion of 1 February 2011. He also advised that the Cook Islands are proceeding on the basis that the standards for the environmental regime for deep seabed mining in the Cook Islands need to be based on the best international environmental practice.

and activities in the Area shall be managed by, and responsibility for them shall be entrusted to, a natural person to whom the Ministry of Industry and Trade has granted a certificate of expertise. Expertise is defined under the Act as: (a) completed university education, specialization in geology or mining, and three years of experience in geological surveying or mining mineral materials; (b) demonstrable knowledge of either the English or the French language at the level of State language examination; (c) demonstrable knowledge of the provisions of the Act, Parts I, XI, XII and XV of the Convention, annexes III to VI to the Convention, the Agreement relating to the Implementation of Part XI of the Convention and its annex, the mandatory principles, rules, regulations and procedures issued by the Authority; and (d) experience in prospecting or in activities in the Area of at least one year's duration, at least one month of which should be in maritime activities (section 6 of the Act). A natural person who intends to engage in prospecting or activities in the Area as such or as an authorized representative of other persons ("Statutory Representative") shall file with the Ministry an application requesting the issuance of a certificate of expertise (section 7 of the Act). Details required to be contained in the application are specified in the relevant sections of the Act.

10. An Authorized Person may commence prospecting in the Area only after a document evidencing registration of the notification by the Authority has been submitted to the Ministry for its files. The Authorized Person may carry out activities in the Area only pursuant to a written contract concluded between the Authorized Person and the Authority, and under the terms and conditions laid down in the Act; and negotiations with the Authority concerning activities in the Area may start only after the Ministry has issued its prior consent in the form of the "certificate of sponsorship" (sections 8 and 9 of the Act). Detailed information required to be submitted by the Authorized Person in his or her application for a certificate of sponsorship is specified under the Act (section 10), and it is provided thereunder that the Ministry shall decide on granting the certificate of sponsorship after consultation with the Ministry of Foreign Affairs.

11. It is stipulated under the Act that disputes connected with prospecting or activities in the Area shall be resolved pursuant to the provisions of articles 186 to 190 of the Convention. If the Authorized Person is subject simultaneously to the proceedings undertaken by the Authority for violation of the mandatory principles, rules, regulations and procedures issued by the Authority in connection with prospecting or activities in the Area and by the Ministry for violation of the provisions of the Act, the Ministry shall suspend the proceedings until it receives a valid decision of the Authority. Should the Authority decide on recourse, the Ministry shall discontinue the proceedings; otherwise the proceedings instituted by the Ministry shall continue (sections 13 and 14 of the Act).

12. The scope of mandates of the Ministry of Industry and Trade is stipulated under the Act (section 15) as follows: (a) keep records of notifications registered by the Authority; (b) appoint and recall members of the expert examination board established to test the expertise and issue rules of procedure of the board; (c) decide on issuance and revoke certificates of expertise, and keep the corresponding records; (d) decide on issuance and revoke certificates of sponsorship granted and keep the corresponding records; inform the Authority about the issuance or expiration of certificates of sponsorship and the reasons therefore; (e) give consent to assignment of rights, obligations and duties and keep the corresponding records; (f) carry out

the inspection activities; and (g) levy fines. For a violation of the obligations stipulated in the Act, the Ministry shall levy a fine of up to: (a) CZK 100 million (US$ 5,300,220) on a person engaged in activities in the Area without a contract concluded with the Authority; (b) CZK 10 million (US$ 530,220) on a person engaged in prospecting without an appointed Statutory Representative unless the person himself is authorized to prospect; (c) CZK 10 million (US$ 530,220) on a person that has failed to adapt its legal status to the provisions hereof within the prescribed period; and (d) CZK 1 million (US$ 53,022) on a person that has violated any of its other obligations under the Act (section 18 of the Act). Such a fine may be levied within three years from the date on which the Ministry becomes aware of the violation, but never later than 10 years after the date on which the violation took place; the seriousness, impact and duration of the illegal activity, the scope of the ensuing damage, as well as the timely and effective cooperation extended by the offender in alleviating the damage, shall be taken into account in determining the amount of the fine.

D. Germany

13. As a former participant in the reciprocating States regime,[2] Germany adopted its Act on the Interim Regulation of the Deep Seabed Mining in 1980 to regulate provisionally the exploration for and recovery of mineral resources from the deep seabed until the entry into force of the United Nations Convention on the Law of the Sea.[3] Germany acceded to the Convention and ratified the 1994 Agreement on 14 October 1994. In response to the request by the Secretary-General, Germany submitted a copy of its Seabed Mining Act of 6 June 1995 (the Act).[4] The purpose of the Act is to ensure compliance with the obligations of Germany deriving from part XI of the Convention, its annex III, the 1994 Implementation Agreement, and the rules and regulations issued by the Authority, to ensure the safety of workers in seabed mining and of the operational facilities for seabed mining and the protection of the marine environment, to take precautions against hazards deriving from

[2] By 1985 unilateral legislation on seabed mining had been enacted by the following seven States: France (1981), Germany (1980), Italy (1985), Japan (1982), the United Kingdom of Great Britain and Northern Ireland (1981), the United States of America (1980), and the former Union of Soviet Socialist Republics (1982). Except in the case of the former Soviet Union, the aim of this legislation was to establish an interim programme to regulate the exploration for and commercial recovery of hard mineral resources of the deep seabed by the Governments of those so-called "reciprocating States", pending their ratification of the United Nations Convention on the Law of the Sea. All those States indicated that their legislation was interim in nature, that it did not involve any claim to sovereignty or sovereign rights over the deep seabed or its mineral resources; that they remained committed to the entry into force of the Convention embodying the principle of common heritage of mankind (if an acceptable text could be agreed upon); that they were not bound by the General Assembly resolution on the subject; and that deep-sea mining conducted with due regard to the interests of other States in the freedom of the high seas was under the current law a legitimate exercise of a high seas freedom. Most of the legislation made provision for its repeal upon entry into force of the Convention for the States concerned. (See E. D. Brown, *The International Law of the Sea*, vol. I, Dartmouth Publishing Company, 1994, pp. 456-458.)

[3] Federal Republic of Germany, Act on the Interim Regulation of Deep Seabed Mining 1980, sect. 1.

[4] Most recently amended by article 74 of the Act of 8 December 2010 (*Federal Law Gazette*, I, p. 1,864).

prospecting and activities in the Area for life, health or the assets of third parties, and to regulate supervision of the prospecting and activities in the Area (section 1 of the Act). For prospectors and contractors, the provisions of the Act and ordinances issued on the basis of section 7 (Authorization to enact ordinances) shall also apply, in addition to the provisions of the Convention and the 1994 Agreement, to the rules and regulations and instructions of the Authority and the stipulations contained in the contracts concluded by them with the Authority.

14. The Act requires that any person wishing to prospect in the Area must first be registered by the Secretary-General of the Authority. The prospector must report the registration to the State Office for Mining, Energy and Geology prior to the commencement of prospecting. Any person wishing to engage in activity in the Area requires the approval of that Office and a contract with the Authority. The application for approval shall be presented to the same Office together with an application for the conclusion of a contract with the Authority, with the draft plan of work and with all other necessary documents. The State Office for Mining, Energy and Geology shall examine whether the preconditions for approval of the applicant are met. It shall obtain comments on the draft plan of work from the Federal Maritime and Hydrographic Agency with respect both to matters of shipping and matters of environmental protection and shall take account of them in its decision. In matters of environmental protection, the Federal Maritime and Hydrographic Agency shall submit its comments in consensus with the Federal Environment Agency. An applicant shall be approved if, first, the applicant and the plan of work meet the preconditions of the Convention, the 1994 Agreement, and the rules and regulations issued by the Authority for the conclusion of a contract, and in particular the obligations pursuant to article 4, paragraph 6 (a) to (c), of annex III to the Convention; and second, the applicant (a) is sufficiently reliable and can guarantee that the activities in the Area will be implemented in an orderly manner which upholds the needs of operational safety, of health and safety at work and of environmental protection, (b) can provide the funding needed for an orderly execution of the activities in the Area, and (c) can show plausibly that the activities planned in the Area can be carried out on a commercial basis (section 4 of the Act).

15. Pursuant to the Act, prospectors and contractors shall be responsible for (a) fulfilling the obligations for them derived from the Convention, the 1994 Agreement, the rules and regulations and instructions of the Authority, the contract, the Act, the ordinances enacted on the basis of section 7 and the administrative decisions taken by the State Office for Mining, Energy and Geology; (b) the safety of the operating facilities which serve the prospecting or activities in the Area, including their orderly construction, maintenance and removal; and (c) protection of the marine environment in the case of prospecting or activity in the Area (section 5 of the Act).

16. Under section 7 of the Act, the Federal Government of Germany is authorized to bring into force by means of ordinances the rules and regulations on prospecting, exploration and exploitation of resources in the Area which are adopted by the Authority pursuant to article 160, paragraph 2 (f) (ii), and article 162, paragraph 2 (o) (ii), of the Convention and article 17 of its annex III and paragraph 15 of section 1 of the annex to the 1994 Agreement. It is further provided under the same section that the Federal Ministry of Economics and Technology is authorized to enact ordinances containing provisions on the implementation of the aforementioned rules and regulations. The ordinances shall be enacted in consensus with the Federal

Ministry of Labour and Social Affairs to the extent that they refer to questions of health and safety at work, and in consensus with the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety to the extent that they refer to questions of environmental protection. This shall be without prejudice to the authorizations pursuant to the Federal Maritime Responsibility Act.

17. The Act also deals with administrative offences and provides for fines up to 50,000 euros levied for these offences committed by anyone who deliberately or negligently fails to register or engages in activities in the Area without a contract with the Authority or breaches a contract with the Authority (section 11 of the Act). Anyone who deliberately commits an act described in the Act and thereby endangers the life or health of stocks of living resources and marine life, or third party assets of significant value, shall be liable to imprisonment of up to five years or to a fine. The Act further provides that anyone who causes danger by negligence or acts recklessly and causes the danger by negligence shall be liable to imprisonment of up to two years or a fine. However, these penalties shall not apply "if the offence is liable to an equal or heavier punishment pursuant to" relevant sections of the Criminal Code of Germany (section 12 of the Act).

E. Guyana

18. On 31 January 2012, the Ministry of Foreign Affairs of the Republic of Guyana submitted to the secretariat a note verbale (No. 101/2012), advising that Guyana does not have any national laws or regulations and has not adopted any administrative measures in relation to the Area. The Ministry further advised that although a Maritime Zones Act was adopted by Guyana in 2010, the provisions therein are focused primarily on Guyana's territorial waters without dealing with the Area. Guyana, however, recognizes the importance of having such legislation and would like to participate in the process of preparing the model legislation as well as access any assistance to be offered by the Authority in the drafting of its own legislation.

F. Nauru

19. In the certificate of sponsorship issued by the Republic of Nauru to Nauru Ocean Resources Inc. (NORI) for the NORI application for approval of a plan of work for exploration for polymetallic nodules, it was declared that the Republic of Nauru assumed responsibility in accordance with article 139, article 153, paragraph 4, and annex III, article 4, paragraph 4, of the Convention. Further, in a letter to the Secretary-General of the Authority dated 11 April 2011, Nauru also reaffirmed its commitment to fulfilling its responsibilities under the Convention and taking all necessary and appropriate measures to secure the effective compliance of NORI with the Convention and related instruments (ISBA/17/C/9, para. 21).

20. In the application the Authority was informed that the Government of Nauru referred to the advisory opinion delivered on 1 February 2011 by the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea (the Tribunal) and stated that it had commenced the process of implementing a comprehensive legal framework to regulate the activities of NORI in the Area. A collaborative work had commenced with the Applied Geoscience and Technology

Division (SOPAC) of the secretariat of the Pacific Community (SPC) on its deep-sea minerals project funded by the European Union (see paras. 25 and 26 below for more information about the project). This project is aimed at strengthening the system of governance and capacity of countries in the management of deep-sea minerals through the development and implementation of sound and regionally integrated legal frameworks, including legislative and regulatory frameworks for offshore minerals exploration and mining, as well as improved human and technical capacity and effective management and monitoring of offshore exploration and mining operations (ibid., para. 22). In March 2012 the project provided Nauru's Parliamentary Counsel with drafting instructions for a Bill for Nauru to regulate deep-sea mining activities under its control.

G. Tonga

21. In its application for approval of a plan of work for exploration for polymetallic nodules in the Area, Tonga Offshore Mining Limited (TOML) informed the Authority that it was sponsored by the Kingdom of Tonga, and in the certificate of sponsorship issued by the Government of Tonga, the Government declared further that it assumed responsibility in accordance with article 139, article 153, paragraph 4, and annex III, article 4, paragraph 4, of the Convention. During the examination of the application by the Legal and Technical Commission, the representatives of Tonga also stated the intention to adopt laws and regulations and to take administrative measures, within the framework of its legal system, for securing compliance by the applicant under its jurisdiction. The SPC-SOPAC European Union (EU)-Funded Deep Sea Minerals Project in January 2012 provided Tonga's Crown Law Office with drafting instructions for a Bill for Tonga to regulate deep-sea mining activities within its jurisdiction or under its effective control. It has subsequently been agreed that the Project's Legal Advisor will work with Tonga's Solicitor General to produce draft legislation by June 2012.[5]

H. United Kingdom of Great Britain and Northern Ireland

22. On 24 February 2012, the Foreign and Commonwealth Office of the United Kingdom provided the secretariat with links to the United Kingdom principal legislation including the Deep Sea Mining (Temporary Provisions) Act 1981 (the Act), the Deep Sea Mining (Exploration Licences) (Applications) Regulations 1982, and the Deep Sea Mining (Exploration Licences) Regulations 1984. As a former participant in the reciprocating States regime,[6] the United Kingdom enacted its Deep Sea Mining (Temporary Provisions) Act in 1981. While the United Kingdom acceded to the Convention and ratified the Implementation Agreement on 25 July 1997, the above legislation remains in force. The Act provides: (a) that, in determining whether to grant an exploration or exploitation licence, the Secretary of State shall have regard to the need to protect (so far as reasonably practicable) marine creatures, plants and other organisms and their habitat from any harmful effects which might result from any activities to be authorized by the licence, and

[5] Hannah Lily, Legal Advisor, SPC-SOPAC EU-Funded Deep Sea Minerals Project (personal communication).

[6] See footnote 2 above.

the Secretary of State shall consider any representations made to him concerning such effects; and (b) terms and conditions of an exploration or an exploitation licence — any exploration or exploitation licence granted by the Secretary of State shall contain such terms and conditions as he considers necessary or expedient to avoid or minimize any such harmful effects (section 1 of the Act). The Act further provides that the Secretary of State may vary or revoke any exploration or exploitation licence to protect any marine creatures, plants or other organisms or their habitat (section 6 (1) of the Act). The Deep Sea Mining (Exploration Licences) (Applications) Regulations 1982 provide for the form and content of applications for exploration licences. The Deep Sea Mining (Exploration Licences) Regulations 1984 prescribe a set of model clauses to be incorporated in such licences, unless the Secretary of State thinks fit to modify or exclude them in any particular case. The model clauses govern, in particular, the scope and duration of the exploration licence (for an initial period of 10 years and may be extended for successive periods of 5 years each), and the responsibilities of the licensee, including requirements for the protection of the environment. They also make provision for surveillance of the licensee's operations by inspectors appointed by the Secretary of State. There also exists the Deep Sea Mining (Temporary Provisions) Act 1981 (Isle of Man) Order 2000, which applies section 1 of the Deep Sea Mining (Temporary Provisions) Act 1981 to bodies incorporated under the laws of the Isle of Man of the United Kingdom, and extends to the Isle of Man other relevant sections under the same Act with modifications specified in the Order.

I. Zambia

23. In its note verbale No. 130/2012 dated 27 April 2012 and an enclosed report, the Permanent Mission of Zambia to the United Nations provided the secretariat with information on Zambia's relevant laws, regulations and administrative measures relating to the Convention. It was stated in the report that "Zambia, being a landlocked and developing country, does not have navy or commercial fishing fleets — whether State or privately owned. Thus with a lack of these, there is little or no incentive in developing laws that regulate such matters. The practicality of the country enacting legislation to carry out obligations under the Convention with a cost implication when the country does not or hardly utilizes the resources in the seas is low. However, as the country's population grows and available resources are likely to become more scarce, it is important that the country explore and utilize other resources available to it". While 13 domestic laws of Zambia were identified in the report as being relevant to the implementation of the Convention, and the current status thereof was briefly introduced, the report recognized that many of the laws would need to be reviewed and their scope needed to be expanded so as to deal with activities on the high seas. Currently no national legislation exists in Zambia on the use of the Exclusive Economic Zone (EEZ), shipping, fishing or other economic activities on the high seas, nor are there legislative or administrative measures with regard to the Area. The existing Environmental Protection and Pollution Control Act, which prohibits pollution of air and water, for instance, does not deal with conservation and management of resources in the high seas, and the report pointed out that "there is need for legislation that deals with these matters comprehensively and to include provisions for States to cooperate in the management of such resources".

24. Based on the above exercise of examining the legislative status of Zambia, the report of Zambia concluded that "it is clear that there is very little domestication or compliance with" the Convention. "The laws that were found to be related to the provisions of the Convention are scattered with provisions that need to be enhanced in order to bring them properly in line with the Convention. Thus comprehensive legislation will need to be developed to ensure that the contents of the Convention are domesticated. In addition, there would be need for policies and laws that will facilitate or encourage the development of enterprises that will utilize resources in the seas, as currently the cost of investing in such enterprises may be beyond most Zambians."

II. Regional efforts

25. In response to the growing interest in deep-sea minerals exploration and mining in recent years within the Pacific Islands region, the secretariat of the Pacific Community Applied Geoscience and Technology Division (SOPAC), with the support of member countries and the financial assistance of the European Union, has established a four-year project (2011-2014) called "SPC-SOPAC EU-Funded Project: Deep Sea Minerals (DSM) in the Pacific Islands Region: A Legal and Fiscal Framework for Sustainable Resource Management" (the Project), to provide relevant assistance, support and advice to the Project's participating countries. These countries include Cook Islands, Federal States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu and Vanuatu. Except Timor-Leste, all the other 14 are members of the Authority. The Project was first introduced to participating Pacific-African, Caribbean and Pacific (ACP) countries and other interested parties at the Project's Inaugural Workshop in June 2011 in Nadi, Fiji.[7] The Project is tasked to (a) develop a regional legislative and regulatory framework for the above Pacific Island countries; and (b) assist them in the development of national policy and legislation on deep-sea mineral exploration and exploitation activities within States' own jurisdiction and in the Area.[8]

26. The first draft of a regional legislative and regulatory framework was completed by the Project Legal Advisor at the end of 2011 and has been circulated for comments to the 15 participating Pacific-ACP countries and to 300 other stakeholders, experts and interested parties. A final version, to be agreed by the 15 Project countries, and taking into account the comments received, is due for publication by 30 June 2012.

[7] The Deputy to the Secretary-General of the Authority, at the invitation of the secretariat of the Pacific Community, serves as a member of the steering committee for the implementation of the project. The committee comprises globally recognized experts in seabed mining, international law and mineral policy and science.

[8] Terms of Reference for Development of a Regional Legislative and Regulatory Framework, 12 December 2011.

III. Status of national legislation of observer states and former reciprocating States

27. As one of the former reciprocating States[9] and currently an observer to the Authority, the United States of America enacted in 1980 the Deep Seabed Hard Mineral Resources Act (the Act). Pursuant to the Act, each licence and permit issued under the Act shall contain such terms, conditions and restrictions, established by the Administrator of the National Oceanic and Atmospheric Administration (NOAA), which prescribe the actions the licensee or permittee shall take in the conduct of exploration and commercial recovery activities to assure protection of the environment. The Administrator shall require in all activities under new permits, and wherever practicable in activities under existing permits, the use of the best available technologies for the protection of safety, health and the environment wherever such activities would have a significant effect on safety, health or the environment, except where the Administrator determines that the incremental benefits are clearly insufficient to justify the incremental costs of using such technologies. Any offence described in the Act is punishable by a fine of not more than $75,000 for each day during which the violation continues or imprisonment for not more than six months, or both. The implementing regulations to this Act include, inter alia, Deep Seabed Mining Regulations Affecting Pre-Enactment Explorers 1980, Deep Seabed Mining Regulations for Exploration Licenses 1980, Deep Seabed Mining Regulations for Commercial Recovery Permits, Public Law 103-426, An Act to authorize the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf sand, gravel and shell resources, enacted on 31 October 1994, and Guidelines for Obtaining Minerals other than Oil, Gas and Sulphur on the Outer Continental Shelf, issued by United States Department of the Interior, Minerals Management Service, in December 1999.

28. Other members of the Authority which were former reciprocating States, including France, Italy, Japan and the Russian Federation (formerly the Union of Soviet Socialist Republics), did not respond to note verbale No. 297/11 sent by the secretariat on 6 October 2011, and the status of their respective national legislation remains unknown to the Secretary-General of the Authority at this time.

[9] See footnote 2 above.

Annex

List of the legislation

I. General

United Nations Convention on the Law of the Sea, Montego Bay, 10 December 1982. In force 16 November 1994, United Nations *Treaty Series*, vol. 1833, No. 1-31363, p. 397; 21 *International Legal Materials* 1261 (1982).

Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982. In force 28 July 1994. General Assembly resolution 48/263; 33 *International Legal Materials* 1309 (1994); United Nations *Treaty Series*, vol. 1836, No. 1-31364, p. 42.

Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area. Adopted 13 July 2000 (ISBA/6/A/18 dated 4 October 2000). Also reproduced in *Selected Decisions* 6, pp. 31-68.

Regulations on prospecting and exploration for polymetallic sulphides in the Area. Adopted 7 May 2010 (ISBA/16/A/12/Rev.1 dated 15 November 2010). Also reproduced in *Selected Decisions* 16, pp. 35-75.

Draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area (ISBA/16/C/WP.2 dated 29 November 2009). Also reproduced in *Selected Decisions* 16, pp. 116-155.

II. National legislation

China

Mineral Resources Law of the People's Republic of China (Adopted at the 15th meeting of the Standing Committee of the Sixth National People's Congress on 19 March 1986, and revised in accordance with the Decision of the Standing Committee of the National People's Congress on Revising the Mineral Resources Law of the People's Republic of China, adopted at the 21st meeting of the Standing Committee of the Eighth National People's Congress on 29 August 1996).

Rules for Implementation of the Mineral Resources Law of the People's Republic of China (Promulgated by Decree No. 152 of the State Council of the People's Republic of China on 26 March 1994, and effective as of the date of promulgation).

Marine Environmental Protection Law of the People's Republic of China (Adopted at the twenty-fourth session of the Standing Committee of the Fifth National People's Congress on 23 August 1982; effective as of 1 March 1983, and revised at the thirteenth session of the Standing Committee of the Ninth National People's Congress on 25 December 1999).

Administrative Regulation on the Prevention and Treatment of the Pollution and Damage to the Marine Environment by Marine Engineering Construction Projects (Adopted at the 148th executive meeting of the State Council on 30 August 2006; in force as of 1 November 2006).

Cook Islands

Cook Islands. Seabed Minerals Act 2009.

Cook Islands. Model Seabed Minerals Agreement of April 2011.

Czech Republic

Czech Republic. Prospecting, Exploration for and Exploitation of Mineral Resources from the Seabed beyond Limits of National Jurisdiction. Act No. 158/2000 of 18 May 2000.

Germany

Germany. Act on Interim Regulation of Deep Seabed Mining 1980, dated 16 August 1980 (English translation) (1981) *International Legal Materials*, XX, p. 393.

Germany. Seabed Mining Act of 6 June 1995 (the Act). Amended by article 74 of the Act of 8 December 2010 (*Federal Law Gazette* I, p. 1864).

Federal Maritime Responsibilities Act of 26 July 2002 (*Federal Law Gazette* I, p. 2876). Amended by article 4 of the Act of 2 June 2008 (*Federal Law Gazette* 2008 II, p. 520).

Guyana

Guyana. Maritime Zones Act 2010 — Act No. 18 of 2010. In force as of 18 September 2010.

Kingdom of Tonga

See Regional efforts in the Pacific Islands region.

Pacific Islands Region

P-ACP States Regional Legislative and Regulatory Framework for Deep Sea Minerals Exploration and Exploitation. SPC-SOPAC EU Deep Sea Minerals Project, 18 April 2012.

Republic of Nauru

See Regional efforts in the Pacific Islands region.

United Kingdom of Great Britain and Northern Ireland

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